

APPEAL NO. 022938
FILED DECEMBER 23, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 9, 2002. The hearing officer determined that the appellant (claimant) did not sustain a compensable repetitive trauma injury with a date of injury of _____; that he did not have disability; and that the respondent (carrier) is relieved from liability under Section 409.002 because the claimant failed to give timely notice of the claimed injury in accordance with Section 409.001. The claimant appeals these determinations and argues that the hearing officer exhibited "improper demeanor" and was biased in favor of the carrier. The carrier urges affirmance of the decision and contends that the allegation of hearing officer bias has no basis in fact and merits no response.

DECISION

Affirmed.

Section 401.011(34) defines occupational disease as including repetitive trauma injuries. The date of injury for an occupational disease is the date the employee knew or should have known that the disease may be related to the employment. Section 408.007. The date of injury, when the claimant knew or should have known that his condition may be related to the employment, is generally a question of fact for the hearing officer to resolve. Similarly, whether the claimant's work activities were sufficiently repetitive to cause the condition affecting the claimant's upper extremities and whether the condition rendered the claimant unable to obtain or retain employment at her preinjury wage were also factual determinations for the hearing officer to resolve. It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). The hearing officer's determination that the date of injury was no later than _____, and that the claimant reported the injury to his employer on April 17, 2002, are supported by the evidence. The hearing officer found against the claimant on these disputed issues and such findings are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The claimant asserts on appeal that the hearing officer exhibited an "improper demeanor" and was biased in favor of the carrier. Nothing in our review of the record supports these allegations. Nor are we persuaded, as the claimant alleges, that the hearing officer "is actually interpreting the medical tests and results as if he were qualified as a doctor," rather than simply weighing the medical evidence presented. The hearing officer's statements relating to the various diagnostic tests accurately reflect the medical evidence.

The hearing officer's decision and order is affirmed.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Chris Cowan
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge